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ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-RCRA-2011-0923, FRL-9500-2]

Agency Information Collection Activities; Proposed Collection; Comment Request;

Revisions to the RCRA Definition of Solid Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a request to the Office of Management and Budget (OMB) to renew an existing approved Information Collection Request (ICR) concerning the definition of Solid Waste. This ICR is scheduled to expire on May 31, 2012. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before [insert date 60 days after publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-RCRA-2011-0923, by one of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.
- Email: rcra-docket@epa.gov.
- Fax: 202-566-9744.
- Mail: RCRA Docket (28221T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460.
- Hand Delivery: 1301 Constitution Ave., NW, Room 3334, Washington, D.C. 20460. Such deliveries are only accepted during the Docket's normal hours of

operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-RCRA-2011-0923.

EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

FOR FURTHER INFORMATION CONTACT: Richard Huggins, Materials Recovery and Waste Management Division, Office of Resource Conservation and Recovery, (5304P), Environmental Protection Agency, 2733 South Crystal Drive, Arlington, VA 22202; telephone number: 703-308-0017; fax number: 703-308-0514; email address: huggins.richard@EPA.gov.

SUPPLEMENTARY INFORMATION:

How Can I Access the Docket and/or Submit Comments?

EPA has established a public docket for this ICR under Docket ID No. EPA-HQ-RCRA-2002-0031, which is available for online viewing at www.regulations.gov, or in person viewing at the RCRA Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for RCRA Docket is (202) 566-0270.

Use www.regulations.gov to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the public docket that are available electronically. Once in the system, select “search,” then key in the docket ID number identified in this document.

What Information is EPA Particularly Interested in?

Pursuant to section 3506(c) (2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond,

including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What Should I Consider when I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Offer alternative ways to improve the collection activity.
6. Make sure to submit your comments by the deadline identified under DATES.
7. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and Federal Register citation.

What Information Collection Activity or ICR Does this Apply to?

Affected entities: Entities potentially affected by this action include approximately 5,600 facilities in 280 industries in 21 economic sectors that generate or recycle hazardous secondary materials that are currently regulated as RCRA Subtitle C hazardous wastes (e.g., secondary materials, such as industrial co-products, by-products, residues, and unreacted feedstocks). Approximately 60% of these affected facilities are classified in NAICS code economic sectors

31, 32, and 33 (manufacturing). The remaining economic sectors, which have more than ten affected industries each, are in NAICS codes 48 (transportation), 42 (wholesale trade), and 56 (administrative support, waste management and remediation).

Title: Revisions to the RCRA Definition of Solid Waste

ICR numbers: EPA ICR No. 2310.01, OMB Control No. 2050-0202.

ICR status: This ICR is currently scheduled to expire on May 31, 2012. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the Federal Register when approved, are listed in 40 CFR part 9, are displayed either by publication in the Federal Register or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The U.S. Environmental Protection Agency (EPA) has published final revisions to the definition of solid waste that exclude certain hazardous secondary materials from regulation under Subtitle C of the Resource Conservation and Recovery Act (RCRA), as amended. The information requirements help ensure that (1) entities operating under the regulatory exclusions contained in today's action are held accountable to the applicable requirements; (2) state inspectors can verify compliance with the restrictions and conditions of the exclusions when needed; and (3) hazardous secondary materials exported for recycling are actually handled as commodities abroad.

Burden Statement: Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying

information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

For the recordkeeping and reporting requirements applicable to hazardous secondary materials sent for reclamation, the aggregate annual burden to respondents over the three-year period covered by this ICR is estimated to be 11,552 hours, with a cost to affected entities (*i.e.*, industrial facilities) of \$1,417,242. However, this represents an annual reduction in burden to respondents of 52,050 hours, representing a cost reduction of \$3,474,035 per year. The estimated annual operation and maintenance costs to affected entities are \$739,469 per year, primarily for purchasing audit or other similar type reports. There are no startup costs and no costs for purchases of services. Administrative costs to the Agency are estimated to be 1,257 hours per year, representing an annual cost of \$49,891. Burden is defined at 5 CFR 1320.3(b).

What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another Federal Register notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under FOR FURTHER INFORMATION CONTACT.

Dated: November 22, 2011

Suzanne Rudzinski, Director,

Office of Resource Conservation and Recovery.

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